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11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
13

14 FRANK ROCHA; AL OTRO LADO,

15 Plaintiffs,

16 v.

17 U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT,

18 Defendant.  
19

Case No. 2:24-cv-07054-DSF-AJR

**DEFENDANT'S ANSWER TO  
COMPLAINT**

1 Defendant U.S. Immigration and Customs Enforcement (“Defendant”), by and  
2 through undersigned counsel, hereby answers the numbered paragraphs of the Complaint  
3 (ECF No. 3, “Complaint”) filed against Defendant by Plaintiffs Frank Rocha and Al Otro  
4 Lado (“Plaintiffs”). This case arises under the Freedom of Information Act (“FOIA”), 5  
5 U.S.C. §552. Defendant expressly denies all allegations in the Complaint, including the  
6 relief sought, that are not specifically admitted or otherwise qualified in this Answer.

7 Defendant responds to the Complaint in like numbered paragraphs as follows:

8 1. Paragraph 1 contains characterizations of Plaintiffs’ Complaint and  
9 Plaintiffs’ requested relief under the FOIA, to which no responses are required. To the  
10 extent a response is deemed required, Defendant admits that Plaintiffs made a request  
11 under the FOIA and otherwise denies the allegations in Paragraph 1.

12 2. The allegations contained in Paragraph 2 do not set forth a claim for relief  
13 or aver facts in support of a claim to which a response is required. To the extent that a  
14 response is required, Defendant is without sufficient information to either admit or deny  
15 the allegations of Paragraph 2, and consequently denies the same.

16 3. The allegations contained in Paragraph 3 do not set forth a claim for relief  
17 or aver facts in support of a claim to which a response is required. To the extent that a  
18 response is required, Defendant is without sufficient information to either admit or deny  
19 the allegations of Paragraph 3, and consequently denies the same.

20 4. The allegations contained in Paragraph 4 do not set forth a claim for relief  
21 or aver facts in support of a claim to which a response is required. To the extent that a  
22 response is required, Defendant is without sufficient information to either admit or deny  
23 the allegations of Paragraph 4, and consequently denies the same.

24 5. The allegations contained in Paragraph 5 do not set forth a claim for relief  
25 or aver facts in support of a claim to which a response is required. To the extent that a  
26 response is required, Defendant is without sufficient information to either admit or deny  
27 the allegations of Paragraph 5, and consequently denies the same.

1           6.     The allegations contained in Paragraph 6 do not set forth a claim for relief  
2 or aver facts in support of a claim to which a response is required. To the extent that a  
3 response is required, Defendant is without sufficient information to either admit or deny  
4 the allegations of Paragraph 6, and consequently denies the same.

5           7.     The allegations contained in Paragraph 7 do not set forth a claim for relief  
6 or aver facts in support of a claim to which a response is required. To the extent that a  
7 response is required, Defendant is without sufficient information to either admit or deny  
8 the allegations of Paragraph 7, and consequently denies the same.

9           8.     The allegations contained in Paragraph 8 do not set forth a claim for relief  
10 or aver facts in support of a claim to which a response is required. To the extent that a  
11 response is required, Defendant is without sufficient information to either admit or deny  
12 the allegations of Paragraph 8, and consequently denies the same.

13          9.     The allegations contained in Paragraph 9 do not set forth a claim for relief  
14 or aver facts in support of a claim to which a response is required. To the extent that a  
15 response is required, Defendant is without sufficient information to either admit or deny  
16 the allegations of Paragraph 9, and consequently denies the same.

17          10.    The allegations contained in Paragraph 10 do not set forth a claim for relief  
18 or aver facts in support of a claim to which a response is required. To the extent that a  
19 response is required, Defendant is without sufficient information to either admit or deny  
20 the allegations of Paragraph 10, and consequently denies the same.

21          11.    The allegations contained in Paragraph 11 do not set forth a claim for relief  
22 or aver facts in support of a claim to which a response is required. To the extent that a  
23 response is required, Defendant is without sufficient information to either admit or deny  
24 the allegations of Paragraph 11, and consequently denies the same.

25          12.    The allegations contained in Paragraph 12 do not set forth a claim for relief  
26 or aver facts in support of a claim to which a response is required. To the extent that a  
27 response is required, Defendant is without sufficient information to either admit or deny  
28 the allegations of Paragraph 12, and consequently denies the same.

1           13. The allegations contained in Paragraph 13 do not set forth a claim for relief  
2 or aver facts in support of a claim to which a response is required. To the extent that a  
3 response is required, Defendant is without sufficient information to either admit or deny  
4 the allegations of Paragraph 13, and consequently denies the same.

5           14. The allegations contained in Paragraph 14 do not set forth a claim for relief  
6 or aver facts in support of a claim to which a response is required. To the extent that a  
7 response is required, Defendant is without sufficient information to either admit or deny  
8 the allegations of Paragraph 14, and consequently denies the same.

9           15. The allegations contained in Paragraph 15 do not set forth a claim for relief  
10 or aver facts in support of a claim to which a response is required. To the extent that a  
11 response is required, Defendant is without sufficient information to either admit or deny  
12 the allegations of Paragraph 15, and consequently denies the same.

13           16. The allegations contained in the first sentence of Paragraph 16 do not set  
14 forth a claim for relief or aver facts in support of a claim to which a response is required.  
15 To the extent that a response is required, Defendant is without sufficient information to  
16 either admit or deny the allegations of the first sentence of Paragraph 16, and  
17 consequently denies the same. Defendant admits that it received a FOIA request from  
18 Plaintiffs on June 28, 2023.

19           17. Defendant admits the allegations contained in Paragraph 17.

20           18. Defendant admits that to date no records were produced but denies the  
21 allegation that no responses have been provided.

22                           **JURISDICTION AND VENUE**<sup>1</sup>

23           19. Paragraph 19 contains Plaintiffs' allegations concerning jurisdiction which  
24 consist of legal conclusions to which no responses are required.

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26           <sup>1</sup> For ease of reference, Defendant's Answer replicates the headings contained in the  
27 Complaint. Although Defendant believes that no response is required to such headings,  
28 to the extent a response is deemed required and to the extent those headings and titles  
could be construed to contain factual allegations, those allegations are denied.

20. Paragraph 20 contains Plaintiffs' allegations concerning jurisdiction which consist of legal conclusions to which no responses are required.

21. Paragraph 21 contains Plaintiffs' allegations concerning venue which consist of legal conclusions to which no responses are required.

### **PARTIES**

22. Defendant is without sufficient information to either admit or deny the allegations of Paragraph 22, and consequently denies the same.

23. Defendant is without sufficient information to either admit or deny the allegations of Paragraph 23, and consequently denies the same.

24. Defendant admits that the U.S. Department of Homeland Security (DHS) is a federal agency subject to the provisions of the FOIA, 5 U.S.C. § 552, *et seq.* Defendant is without sufficient information to either admit or deny the remaining allegations of Paragraph 24, and consequently denies the same.

### **FACTS**

25. Defendant admits the allegations contained in Paragraph 25.

26. Defendant admits the allegations contained in Paragraph 26.

27. Defendant admits the allegations contained in Paragraph 27.

28. Defendant admits the allegations contained in Paragraph 28.

29. Defendant admits the allegations contained in Paragraph 29.

30. Defendant admits the allegations contained in Paragraph 30 at the time the Complaint was filed.

31. Defendant admits the allegations contained in Paragraph 31.

32. Defendant admits the allegations contained in Paragraph 32.

33. Defendant admits the allegations contained in Paragraph 33.

34. Defendant admits the allegations contained in Paragraph 34.

35. Defendant admits the allegations contained in Paragraph 35.

36. Defendant admits the allegations contained in Paragraph 36 at the time the Complaint was filed.

37. Defendant admits that a FOIA request was submitted seeking production of records but denies that this request was submitted on March 12, 2024.

**COUNT II: Violation of 5 U.S.C. § 552(a)(3)(C)**

**Failure to Conduct Adequate Search**

49. Defendant incorporates by reference its responses to Paragraphs 1 through 48 of the Complaint.

50. The allegations in Paragraph 50 consist of legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations in Paragraph 50.

51. The allegations in Paragraph 51 consist of legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations in Paragraph 51.

**COUNT III: Violation of 5 U.S.C. § 552(a)(4)(B)**

**Unlawful Withholding of Agency Records**

52. Defendant incorporates by reference its responses to Paragraphs 1 through 51 of the Complaint.

53. The allegations in Paragraph 53 consist of legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations in Paragraph 53.

54. The allegations in Paragraph 54 consist of legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations in Paragraph 54.

**COUNT IV: Violation of 5 U.S.C. § 552(a)(3)(A)**

**Failure to Make Records Promptly Available**

55. Defendant incorporates by reference its responses to Paragraphs 1 through 54 of the Complaint.

56. The allegations in Paragraph 56 consist of legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations in Paragraph 56.

57. The allegations in Paragraph 57 consist of legal conclusions to which no

1 response is required. To the extent a response is deemed required, Defendant denies the  
2 allegations in Paragraph 57.

3 58. The allegations in Paragraph 58 consist of legal conclusions to which no  
4 response is required. To the extent a response is deemed required, Defendant denies the  
5 allegations in Paragraph 58.

### 6 **REQUEST FOR RELIEF**

7 The remainder of Plaintiffs' Complaint contains Plaintiffs' requested relief, to  
8 which no responses are required. Defendant denies that Plaintiff is entitled to the relief  
9 requested or to any relief whatsoever.

### 10 **GENERAL DENIAL**

11 Defendant hereby denies generally and specifically each and every allegation  
12 contained in Plaintiffs' Complaint that has not been previously admitted, denied, or  
13 otherwise answered.

### 14 **AFFIRMATIVE DEFENSES**

15 Defendant asserts the following affirmative defenses and reserves the right to  
16 amend, alter, and supplement the defenses in this Answer as the facts and circumstances  
17 giving rise to the Complaint become known to Defendant through the course of this  
18 litigation. In asserting these defenses, Defendant does not assume any burden of proof,  
19 persuasion, or production with respect to any issue where the applicable law places the  
20 burden upon Plaintiff.

### 21 **FIRST DEFENSE**

22 The Court lacks subject matter jurisdiction over Plaintiffs' request to the extent  
23 that any requested relief exceeds the relief authorized by the FOIA.

### 24 **SECOND DEFENSE**

25 Defendant has not improperly withheld any records under the FOIA.

### 26 **THIRD DEFENSE**

1 Plaintiff is not entitled to compel the production of any record or portion of any  
2 record protected from disclosure by one or more of the exemptions to the FOIA, or under  
3 other provisions of the law.

4 **FOURTH DEFENSE**

5 Plaintiff is neither eligible for nor entitled to attorneys' fees or costs.

6 **FIFTH DEFENSE**

7 To the extent that Plaintiff failed to satisfy prerequisites to suit, this Court lacks  
8 jurisdiction over any matter as well as over any requests or allegations that are not  
9 contained in the FOIA request at issue in this action.

10 **SIXTH DEFENSE**

11 Plaintiffs' request submitted under the FOIA did not reasonably describe the  
12 records sought.

13 **SEVENTH DEFENSE**

14 Any information that Defendant has withheld, or will withhold, in response to  
15 Plaintiffs' FOIA request may be exempt in whole or in part from public disclosure under  
16 the FOIA, 5 U.S.C. § 552, *et seq.*, and/or the Privacy Act, 5 U.S.C. § 552(a), *et seq.*

17 **EIGHTH DEFENSE**

18 At all times alleged in the Complaint, Defendant acted in good faith, with  
19 justification, and pursuant to lawful authority.

20 WHEREFORE, Defendant prays for:

- 21 a. No injunctive relief be awarded to Plaintiffs;  
22 b. That judgment be entered for the Defendant and against Plaintiffs;  
23 c. That Plaintiffs' Complaint and action be dismissed in its entirety;  
24 d. That the Defendant be awarded costs and disbursement in this action; and  
25 e. For such other and further relief as the Court may deem just and proper.  
26  
27  
28

1 Dated: October 25, 2024

Respectfully submitted,

2 E. MARTIN ESTRADA

United States Attorney

3 DAVID M. HARRIS

Assistant United States Attorney

4 Chief, Civil Division

5 JOANNE S. OSINOFF

Assistant United States Attorney

6 Chief, Complex and Defensive Litigation  
Section

7 /s/ Sarah L. Cronin

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8 Assistant United States Attorney

9 Attorneys for Defendant U.S. Immigration  
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